

AMENDMENTS TO TRANSPORTATION

PROVISIONS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Motor Vehicles Code, the Sales and Use Tax Act, the Motor Fuel Tax Act, and the Transportation Code by amending provisions relating to transportation.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ creates the Mountain View Corridor Fund;
- ▶ provides that the following shall be deposited in the Mountain View Corridor Fund:
 - the local corridor preservation fee imposed in a county of the first class;
 - 1/4% of a 1/4% of the public transit tax revenue in a county of the first class

when certain bonds have been paid off; and

- 25% of the County Option Sales and Use Tax for Transportation tax revenue imposed in a county of the first class that is designated for corridor preservation;

- ▶ reduces the motor fuel tax rate from 24.5 cents per gallon to 15 cents per gallon;
- ▶ imposes an additional tax on motor fuel based on the quarterly average wholesale price of motor fuel;

- ▶ requires the State Tax Commission to determine the average wholesale price of motor fuel and convert the rate to a cents per gallon rate;



28 ▶ grants the State Tax Commission rulemaking authority to implement the variable
29 fuel tax provisions;
30 ▶ exempts the Mountain View Corridor Fund from spending limit provisions;
31 ▶ repeals certain reapportionment provisions for the distribution of the B and C roads
32 account;
33 ▶ restricts the use of the Local Transportation Corridor Preservation Fund revenue to
34 preserve highway corridors that are rights-of-way for state highways or minor
35 arterial highways; and
36 ▶ makes technical changes.

37 **Monies Appropriated in this Bill:**

38 None

39 **Other Special Clauses:**

40 This bill takes effect on July 1, 2007.

41 **Utah Code Sections Affected:**

42 **AMENDS:**

43 **41-1a-1222**, as enacted by Chapter 284, Laws of Utah 2005
44 **59-12-502**, as last amended by Chapters 253 and 329, Laws of Utah 2006
45 **59-12-1703**, as enacted by Chapter 1, Laws of Utah 2006, Fourth Special Session
46 **59-13-201**, as last amended by Chapter 237, Laws of Utah 2004
47 **63-38c-103**, as last amended by Chapter 1, Laws of Utah 2005, First Special Session
48 **72-2-108**, as last amended by Chapter 105, Laws of Utah 2005
49 **72-2-117.5**, as last amended by Chapter 1, Laws of Utah 2006, Fourth Special Session
50 **72-2-121**, as last amended by Chapter 1, Laws of Utah 2006, Fourth Special Session

51 **ENACTS:**

52 **59-13-201.3**, Utah Code Annotated 1953
53 **72-2-125**, Utah Code Annotated 1953

54 **REPEALS:**

55 **59-13-104**, as enacted by Chapter 253, Laws of Utah 1998

57 *Be it enacted by the Legislature of the state of Utah:*

58 Section 1. Section **41-1a-1222** is amended to read:

41-1a-1222. Local option transportation corridor preservation fee -- Exemptions
-- Deposit -- County ordinance -- Notice.

(1) (a) (i) A county legislative body may impose a local option transportation corridor preservation fee of up to \$10 on each motor vehicle registration within the county.

(ii) A fee imposed under Subsection (1)(a)(i) shall be set in whole dollar increments.

(b) If imposed under Subsection (1)(a), at the time application is made for registration or renewal of registration of a motor vehicle under this chapter, the applicant shall pay the local option transportation corridor preservation fee established by the county legislative body.

(c) A motor vehicle that is exempt from the registration fee under Section 41-1a-1209 or Subsection 41-1a-419(3) is also exempt from the local option transportation corridor preservation fee required by this section.

(d) A commercial motor vehicle with an apportioned registration under Section 41-1a-301 is exempt from the local option transportation corridor preservation fee required by this section.

(2) ~~[The]~~ (a) Except as provided in Subsection (2)(b), the revenue generated under this section shall be:

~~[(a)]~~ (i) deposited in the Local Transportation Corridor Preservation Fund created in Section 72-2-117.5;

~~[(b)]~~ (ii) credited to the county from which it is generated; and

~~[(c)]~~ (iii) used and distributed in accordance with Section 72-2-117.5.

(b) The revenue generated by a fee imposed under this section in a county of the first class shall be:

(i) deposited in the Mountain View Corridor Fund created in Section 72-2-125; and

(ii) used in accordance with Section 72-2-125.

(3) To impose or change the amount of a fee under this section, the county legislative body shall pass an ordinance:

(a) approving the fee;

(b) setting the amount of the fee; and

(c) providing an effective date for the fee as provided in Subsection (4).

(4) (a) If a county legislative body enacts, changes, or repeals a fee under this section, the enactment, change, or repeal shall take effect on July 1 if the commission receives notice

meeting the requirements of Subsection (4)(b) from the county prior to April 1.

(b) The notice described in Subsection (4)(a) shall:

(i) state that the county will enact, change, or repeal a fee under this part;

(ii) include a copy of the ordinance imposing the fee; and

(iii) if the county enacts or changes the fee under this section, state the amount of the fee.

Section 2. Section **59-12-502** is amended to read:

59-12-502. Additional public transit tax for expanded system and fixed guideway and interstate improvements -- Base -- Rate -- Voter approval.

(1) (a) (i) In addition to other sales and use taxes, including the public transit district tax authorized by Section 59-12-501, a county, city, or town within a transit district organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act, may impose a sales and use tax of .25% on the transactions described in Subsection 59-12-103(1) located within the county, city, or town, to fund a fixed guideway and expanded public transportation system.

(ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax under this section on:

(A) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(B) any amounts paid or charged by a seller that collects a tax under Subsection 59-12-107(1)(b).

(b) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Section 59-12-207.

(c) (i) A county, city, or town may impose the tax under this section only if the governing body of the county, city, or town submits, by resolution, the proposal to all the qualified voters within the county, city, or town for approval at a general or special election conducted in the manner provided by statute.

(ii) Notice of the election under Subsection (1)(c)(i) shall be given by the county, city, or town governing body 15 days in advance in the manner prescribed by statute.

(2) If the majority of the voters voting in this election approve the proposal, it shall become effective on the date provided by the county, city, or town governing body.

(3) (a) This section may not be construed to require an election in jurisdictions where

voters have previously approved a public transit sales or use tax.

(b) This section shall be construed to require an election to impose the sales and use tax authorized by this section, including jurisdictions where the voters have previously approved the sales and use tax authorized by Section 59-12-501, but this section may not be construed to affect the sales and use tax authorized by Section 59-12-501.

(4) No public funds shall be spent to promote the required election.

(5) (a) Notwithstanding the designated use of revenues in Subsection (1), of the revenues generated by the tax imposed under this section by any county of the first class:

(i) 75% shall be allocated to fund a fixed guideway and expanded public transportation system; and

(ii) except as provided in Subsection (5)(b), 25% shall be allocated to fund new construction, major renovations, and improvements to Interstate 15 and state highways within the county and to pay any debt service and bond issuance costs related to those projects.

~~[(b) Notwithstanding the designated use of revenues in Subsection (1), beginning on July 1, 2006, and ending on July 1, 2007, a county of the first class may expend an amount not to exceed \$3,500,000 of the revenues described in Subsection (5)(a)(ii) for expenses relating to reconfiguring railroad curves within that county to reduce rail congestion.]~~

(b) (i) As used in this Subsection (5)(b), "Mountain View Corridor" means the land area of Salt Lake County running from Interstate 80 south between SR-154 and SR-111 to 12600 South and then south and southeasterly to the northern portion of Utah County west of SR-15.

(ii) Beginning on July 1, 2008 and except as provided in Subsection (5)(c), a bond may not be issued to fund new construction, major renovations, and improvements to Interstate 15 and state highways within the county if the bond is intended to be paid from revenues allocated under Subsection (5)(a)(ii).

(c) When all bonds incurred before July 1, 2008 for new construction, major renovations, and improvements to Interstate 15 and state highways within the county which were intended to be paid from revenues allocated under Subsection (5)(a)(ii) have been paid off, the revenues generated by the tax imposed under this section that are allocated under Subsection (5)(a)(ii) shall be deposited in the Mountain View Corridor Fund created in Section 72-2-125.

(6) A county of the first class may, through an interlocal agreement, authorize the deposit or transfer of the portion of the revenues described in Subsection (5)(a)(ii) to the Public Transportation System Tax Highway Fund created in Section 72-2-121.

Section 3. Section **59-12-1703** is amended to read:

59-12-1703. Opinion question election -- Base -- Rate -- Imposition of tax -- Use of tax revenues -- Administration, collection, and enforcement of tax by commission -- Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.

(1) (a) Beginning on or after April 1, 2007, and subject to the other provisions of this part, a county legislative body may impose a sales and use tax of up to .25%:

(i) on the transactions:

(A) described in Subsection 59-12-103(1); and

(B) within the county, including the cities and towns within the county;

(ii) for the purposes described in Subsection (4); and

(iii) in addition to any other sales and use tax authorized under this chapter.

(b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; or

(ii) any amounts paid or charged by a seller that collects a tax under Subsection 59-12-107(1)(b).

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Section 59-12-207.

(2) (a) Except as provided in Subsection (2)(d), before imposing a tax under this part, a county legislative body shall:

(i) obtain approval from a majority of the members of the county legislative body to impose the tax; and

(ii) submit an opinion question to the county's registered voters voting on the imposition of the tax so that each registered voter has the opportunity to express the registered voter's opinion on whether a tax should be imposed under this part.

(b) (i) In a county of the first or second class, the opinion question required by Subsection (2)(a)(ii) shall state the following:

"Shall (insert the name of the county), Utah, be authorized to impose a (insert the amount of the sales and use tax up to .25%) sales and use tax for corridor preservation, congestion mitigation, or to expand capacity for regionally significant transportation facilities?"

(ii) In a county of the third, fourth, fifth, or sixth class, the opinion question required by Subsection (2)(a)(ii) shall state the following:

"Shall (insert the name of the county), Utah, be authorized to impose a (insert the amount of the sales and use tax up to .25%) sales and use tax for transportation projects, corridor preservation, congestion mitigation, or to expand capacity for regionally significant transportation facilities?"

(c) Except as provided in Subsection (2)(d), the election required by this Subsection (2) shall be held:

(i) at a regular general election conducted in accordance with the procedures and requirements of Title 20A, Election Code, governing regular elections; or

(ii) at a special election called by the county legislative body that is:

(A) held only on the date of a municipal general election as provided in Subsection 20A-1-202(1); and

(B) authorized in accordance with the procedures and requirements of Section 20A-1-203.

(d) Notwithstanding Subsection (2)(a) or (c), if a county seeks to impose a tax under this part on or after April 1, 2007, but on or before December 31, 2007, the county legislative body shall:

(i) obtain the approval required by Subsection (2)(a)(i) within five calendar days of September 20, 2006;

(ii) direct the county clerk to submit the opinion question required by Subsection (2)(a)(ii) during the November 7, 2006 general election; and

(iii) hold the election required by this section on November 7, 2006.

(3) If a county legislative body determines that a majority of the county's registered voters voting on the imposition of the tax have voted in favor of the imposition of the tax in accordance with Subsection (2), the county legislative body shall impose the tax in accordance with this section.

(4) (a) Subject to Subsections (5) and (6), the revenues generated by a tax under this

part may only be expended for:

(i) a project or service:

(A) relating to a regionally significant transportation facility;

(B) for the portion of the project or service that is performed within the county;

(C) for new capacity or congestion mitigation if the project or service is performed within a county:

(I) of the first class;

(II) of the second class; or

(III) that is part of an area metropolitan planning organization;

(D) (I) if the project or service is a principal arterial highway or a minor arterial highway in a county of the first or second class, that is part of the county and municipal master plan and part of:

(Aa) the statewide long-range plan; or

(Bb) the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(II) if the project or service is for a fixed guideway or an airport, that is part of the regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; and

(E) that is on a priority list:

(I) created by the county's council of governments in accordance with Subsection (5); and

(II) approved by the county legislative body in accordance with Subsection (6);

(ii) corridor preservation for a project described in Subsection (4)(a)(i) as provided in Subsection (7)(b); or

(iii) any debt service and bond issuance costs related to a project described in Subsection (4)(a)(i) or (ii).

(b) In a county of the first or second class, a regionally significant transportation facility project or service described in Subsection (4)(a)(i)(A) must have a funded year priority designation on a Statewide Transportation Improvement Program and Transportation Improvement Program if the project or service described in Subsection (4)(a)(i) is:

(i) a principal arterial highway as defined in Section 72-4-102.5;

(ii) a minor arterial highway as defined in Section 72-4-102.5; or

(iii) a major collector highway:

(A) as defined in Section 72-4-102.5; and

(B) in a rural area.

(c) Notwithstanding the designated use of revenues in Subsection (4)(a), of the revenues generated by the tax imposed under this section by any county of the first or second class, 25% or more shall be expended for the purpose described in Subsection (4)(a)(ii).

(d) For purposes of this Subsection (4), the revenues a county will receive from a tax under this part do not include amounts retained by the commission in accordance with Subsection (8).

(5) (a) The county's council of governments shall create a priority list of regionally significant transportation facility projects described in Subsection (4)(a) using the process described in Subsection (5)(b) and present the priority list to the county's legislative body for approval as described in Subsection (6).

(b) Subject to Sections 59-12-1704 and 59-12-1705, a council of governments shall establish a council of governments' endorsement process which includes prioritization and application procedures for use of the revenues a county will receive from a tax under this part.

(6) (a) The council of governments shall submit the priority list described in Subsection (5) to the county's legislative body and obtain approval of the list from a majority of the members of the county legislative body.

(b) A county's council of governments may only submit one priority list per calendar year.

(c) A county legislative body may only consider and approve one priority list per calendar year.

(7) (a) (i) Except as provided in Subsections (7)(a)(ii) and (7)(b), revenues described in Subsection (4) shall be transmitted:

(A) by the commission;

(B) to the county;

(C) monthly; and

(D) by electronic funds transfer.

(ii) A county may request that the commission transfer a portion of the revenues

described in Subsection (4):

(A) directly to a public transit district:

(I) organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; and

(II) designated by the county; and

(B) by providing written notice to the commission:

(I) requesting the revenues to be transferred directly to a public transit district as provided in Subsection (7)(a)(ii)(A); and

(II) designating the public transit district to which the revenues are requested to be transferred.

(b) (i) Except as provided in Subsection (7)(b)(ii), revenues generated by a tax under this part that are allocated for a purpose described in Subsection (4)(a)(ii) shall be:

(A) deposited in or transferred to the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; and

(B) expended as provided in Section 72-2-117.5.

(ii) In a county of the first class, revenues generated by a tax under this part that are allocated for a purpose described in Subsection (4)(a)(ii) shall be:

(A) deposited in or transferred to the ~~[Public Transportation System Tax Highway]~~ Mountain View Corridor Fund created by Section ~~[72-2-121]~~ 72-2-125; and

(B) expended as provided in Section ~~[72-2-121]~~ 72-2-125.

(8) (a) (i) Except as provided in Subsection (8)(b), the tax authorized under this part shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies.

(ii) A tax under this part is not subject to Subsections 59-12-205(2) through (7).

(b) (i) The commission may retain an amount of tax collected under this part of not to exceed the lesser of:

(A) 1.5%; or

(B) an amount equal to the cost to the commission of administering this part.

(ii) Any amount the commission retains under Subsection (8)(b)(i) shall be:

(A) placed in the Sales and Use Tax Administrative Fees Account; and

(B) used as provided in Subsection 59-12-206(2).

(9) (a) (i) Except as provided in Subsection (9)(b) or (c), if, on or after April 1, 2007, a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(a)(ii) from the county.

(ii) The notice described in Subsection (9)(a)(i)(B) shall state:

(A) that the county will enact, repeal, or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (9)(a)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(a)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(a)(ii)(A), the rate of the tax.

(b) (i) For a transaction described in Subsection (9)(b)(iii), if the billing period for the transaction begins before the effective date of the enactment of the tax or tax rate increase under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) For a transaction described in Subsection (9)(b)(iii), if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

(iii) Subsections (9)(b)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(b);

(B) Subsection 59-12-103(1)(c);

(C) Subsection 59-12-103(1)(d);

(D) Subsection 59-12-103(1)(e);

(E) Subsection 59-12-103(1)(f);

(F) Subsection 59-12-103(1)(g);

(G) Subsection 59-12-103(1)(h);

(H) Subsection 59-12-103(1)(i);

(I) Subsection 59-12-103(1)(j); or

(J) Subsection 59-12-103(1)(k).

(c) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (9)(a)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (9)(a)(i).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(d) (i) Except as provided in Subsection (9)(e) or (f), if, for an annexation that occurs on or after April 1, 2007, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (9)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (9)(d)(i)(B) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(d)(ii)(A), the rate of the tax.

(e) (i) For a transaction described in Subsection (9)(e)(iii), if the billing period for the transaction begins before the effective date of the enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) For a transaction described in Subsection (9)(e)(iii), if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

(iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(b);

(B) Subsection 59-12-103(1)(c);

(C) Subsection 59-12-103(1)(d);

(D) Subsection 59-12-103(1)(e);

(E) Subsection 59-12-103(1)(f);

(F) Subsection 59-12-103(1)(g);

(G) Subsection 59-12-103(1)(h);

(H) Subsection 59-12-103(1)(i);

(I) Subsection 59-12-103(1)(j); or

(J) Subsection 59-12-103(1)(k).

(f) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (9)(d)(i) takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate under Subsection (9)(d)(i).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Section 4. Section **59-13-201** is amended to read:

59-13-201. Rate -- Tax basis -- Exemptions -- Revenue deposited in the Transportation Fund -- Restricted account for boating uses -- Refunds -- Reduction of tax in limited circumstances.

(1) (a) Subject to the provisions of this section, a tax is imposed at the rate of [~~24-1/2~~ 15] cents per gallon upon all motor fuel that is sold, used, or received for sale or used in this state.

(b) In lieu of the tax imposed under Subsection (1)(a) and subject to the provisions of this section, a tax is imposed at the rate of 3/19 of the ~~[rate]~~ rates imposed under Subsection (1)(a) and Section 59-13-201.3, rounded up to the nearest penny, upon all motor fuels that meet the definition of clean fuel in Section 59-13-102 and are sold, used, or received for sale or use in this state.

(2) Any increase or decrease in tax rate applies to motor fuel that is imported to the state or sold at refineries in the state on or after the effective date of the rate change.

(3) (a) No motor fuel tax is imposed upon:

(i) motor fuel that is brought into and sold in this state in original packages as purely interstate commerce sales;

(ii) motor fuel that is exported from this state if proof of actual exportation on forms prescribed by the commission is made within 180 days after exportation;

(iii) motor fuel or components of motor fuel that is sold and used in this state and distilled from coal, oil shale, rock asphalt, bituminous sand, or solid hydrocarbons located in this state; or

(iv) motor fuel that is sold to the United States government, this state, or the political subdivisions of this state.

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules governing the procedures for administering the tax exemption provided under Subsection (3)(a)(iv).

(4) The commission may either collect no tax on motor fuel exported from the state or, upon application, refund the tax paid.

(5) (a) All revenue received by the commission under this part shall be deposited daily with the state treasurer and credited to the Transportation Fund.

(b) An appropriation from the Transportation Fund shall be made to the commission to cover expenses incurred in the administration and enforcement of this part and the collection of the motor fuel tax.

(6) (a) The commission shall determine what amount of motor fuel tax revenue is received from the sale or use of motor fuel used in motorboats registered under the provisions of the State Boating Act, and this amount shall be deposited in a restricted revenue account in the General Fund of the state.

(b) The funds from this account shall be used for the construction, improvement, operation, and maintenance of state-owned boating facilities and for the payment of the costs and expenses of the Division of Parks and Recreation in administering and enforcing the State Boating Act.

(7) (a) The United States government or any of its instrumentalities, this state, or a political subdivision of this state that has purchased motor fuel from a licensed distributor or from a retail dealer of motor fuel and has paid the tax on the motor fuel as provided in this section is entitled to a refund of the tax and may file with the commission for a quarterly refund.

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules governing the application and refund provided for in Subsection (7)(a).

(8) (a) The commission shall refund annually into the Off-Highway Vehicle Account in the General Fund an amount equal to the lesser of the following:

- (i) .5% of the motor fuel tax revenues collected under this section; or
- (ii) \$1,050,000.

(b) This amount shall be used as provided in Section 41-22-19.

(c) This Subsection (8) sunsets on July 1, 2010.

(9) (a) Beginning on April 1, 2001, a tax imposed under this section on motor fuel that is sold, used, or received for sale or use in this state is reduced to the extent provided in Subsection (9)(b) if:

(i) a tax imposed on the basis of the sale, use, or receipt for sale or use of the motor fuel is paid to the Navajo Nation;

(ii) the tax described in Subsection (9)(a)(i) is imposed without regard to whether or not the person required to pay the tax is an enrolled member of the Navajo Nation; and

(iii) the commission and the Navajo Nation execute and maintain an agreement as provided in this Subsection (9) for the administration of the reduction of tax.

(b) (i) If but for Subsection (9)(a) the motor fuel is subject to a tax imposed by this section:

(A) the state shall be paid the difference described in Subsection (9)(b)(ii) if that difference is greater than \$0; and

(B) a person may not require the state to provide a refund, a credit, or similar tax relief if the difference described in Subsection (9)(b)(ii) is less than or equal to \$0.

(ii) The difference described in Subsection (9)(b)(i) is equal to the difference between:

(A) the amount of tax imposed on the motor fuel by this section; less

(B) the tax imposed and collected by the Navajo Nation on the motor fuel.

(c) For purposes of Subsections (9)(a) and (b), the tax paid to the Navajo Nation under a tax imposed by the Navajo Nation on the basis of the sale, use, or receipt for sale or use of motor fuel does not include any interest or penalties a taxpayer may be required to pay to the Navajo Nation.

(d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules governing the procedures for administering the reduction of tax provided under this Subsection (9).

(e) The agreement required under Subsection (9)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a reduction of taxes greater than or different from the reduction described in this Subsection (9); or

(C) affect the power of the state to establish rates of taxation;

(ii) shall:

(A) be in writing;

(B) be signed by:

(I) the chair of the commission or the chair's designee; and

(II) a person designated by the Navajo Nation that may bind the Navajo Nation;

(C) be conditioned on obtaining any approval required by federal law;

(D) state the effective date of the agreement; and

(E) state any accommodation the Navajo Nation makes related to the construction and maintenance of state highways and other infrastructure within the Utah portion of the Navajo Nation; and

(iii) may:

(A) notwithstanding Section 59-1-403, authorize the commission to disclose to the Navajo Nation information that is:

493 (I) contained in a document filed with the commission; and
494 (II) related to the tax imposed under this section;
495 (B) provide for maintaining records by the commission or the Navajo Nation; or
496 (C) provide for inspections or audits of distributors, carriers, or retailers located or
497 doing business within the Utah portion of the Navajo Nation.
498 (f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax
499 imposed on motor fuel, any change in the reduction of taxes under this Subsection (9) as a
500 result of the change in the tax rate is not effective until the first day of the calendar quarter after
501 a 60-day period beginning on the date the commission receives notice:
502 (A) from the Navajo Nation; and
503 (B) meeting the requirements of Subsection (9)(f)(ii).
504 (ii) The notice described in Subsection (9)(f)(i) shall state:
505 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
506 motor fuel;
507 (B) the effective date of the rate change of the tax described in Subsection (9)(f)(ii)(A);
508 and
509 (C) the new rate of the tax described in Subsection (9)(f)(ii)(A).
510 (g) If the agreement required by Subsection (9)(a) terminates, a reduction of tax is not
511 permitted under this Subsection (9) beginning on the first day of the calendar quarter after a
512 30-day period beginning on the day the agreement terminates.
513 (h) If there is a conflict between this Subsection (9) and the agreement required by
514 Subsection (9)(a), this Subsection (9) governs.
515 Section 5. Section **59-13-201.3** is enacted to read:
516 **59-13-201.3. Supplemental motor fuel tax rate -- Basis -- Revenue deposited in**
517 **Transportation Investment Fund of 2005.**
518 (1) (a) Except as provided in Subsection (1)(b) and in addition to the motor fuel tax
519 imposed under Section 59-13-201, a supplemental motor fuel tax is imposed at the rate of 5.6%
520 on the quarterly average wholesale price of motor fuel for the calendar quarter or 9.5 cents per
521 gallon, whichever is greater, upon all motor fuel that is sold, used, or received for sale or use in
522 this state.
523 (b) The motor fuel tax rate under Subsection (1)(a) may not exceed 13.5 cents per

gallon.

(2) (a) The average wholesale price of motor fuel shall be determined in accordance with this Subsection (2).

(b) (i) The commission shall determine the quarterly average wholesale price of motor fuel on March 31, June 30, September 30, and December 31 of each calendar year.

(ii) The commission shall determine the average wholesale price of motor fuel by using information on refiner and gas plant operator sales prices of finished motor gasoline for resale published by the Energy Information Administration of the United States Department of Energy.

(iii) The commission shall convert the tax rate imposed under Subsection (1) on the quarterly average wholesale price of motor fuel to a cents per gallon rate and round the rate to the nearest 1/10 of a cent.

(iv) (A) The quarterly average wholesale price of fuel determined on March 31 shall be used to determine the tax rate imposed under this section on motor fuel for the July 1 through September 30 calendar quarter.

(B) The quarterly average wholesale price of motor fuel determined on June 30 shall be used to determine the tax rate imposed under this section on motor fuel for the October 1 through December 31 calendar quarter.

(C) The quarterly average wholesale price of motor fuel determined on September 30 shall be used to determine the tax rate imposed under this section on motor fuel for the January 1 through March 31 calendar quarter.

(D) The quarterly average wholesale price of motor fuel determined on December 31 shall be used to determine the tax rate imposed under this section on motor fuel for the April 1 through June 30 calendar quarter.

(v) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules implementing the provisions of this section.

(3) The provisions and requirements of Subsection 59-13-201(2) through (9) apply to the fuel tax imposed under this section.

Section 6. Section **63-38c-103** is amended to read:

63-38c-103. Definitions.

As used in this chapter:

(1) (a) "Appropriations" means actual unrestricted capital and operating appropriations from unrestricted General Fund sources and from non-Uniform School Fund income tax revenues as presented in the governor's executive budgets.

(b) "Appropriation" includes appropriations that are contingent upon available surpluses in the General Fund.

(c) "Appropriations" does not mean:

(i) debt service expenditures;

(ii) emergency expenditures;

(iii) expenditures from all other fund or subfund sources presented in the executive budgets;

(iv) transfers into, or appropriations made to, the General Fund Budget Reserve Account established in Section 63-38-2.5;

(v) transfers into, or appropriations made to, the Education Budget Reserve Account established in Section 63-38-2.6;

(vi) monies appropriated to fund the total one-time project costs for the construction of capital developments as defined in Section 63A-5-104;

(vii) appropriations made to the Centennial Highway Fund Restricted Account created by Section 72-2-118; ~~or~~

(viii) appropriations made to the Transportation Investment Fund of 2005 created by Section 72-2-124[:]; or

(ix) appropriations made to the Mountain View Corridor Fund created by Section 72-2-125.

(2) "Base year real per capita appropriations" means the result obtained for the state by dividing the fiscal year 1985 actual appropriations of the state less debt monies by:

(a) the state's July 1, 1983 population; and

(b) the fiscal year 1983 inflation index divided by 100.

(3) "Calendar year" means the time period beginning on January 1 of any given year and ending on December 31 of the same year.

(4) "Fiscal emergency" means an extraordinary occurrence requiring immediate expenditures and includes the settlement under Chapter 4, Laws of Utah 1988, Fourth Special Session.

(5) "Fiscal year" means the time period beginning on July 1 of any given year and ending on June 30 of the subsequent year.

(6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual capital and operations appropriations from General Fund and non-Uniform School Fund income tax revenue sources, less debt monies.

(7) "Inflation index" means the change in the general price level of goods and services as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic Analysis, U.S. Department of Commerce calculated as provided in Section 63-38c-202.

(8) (a) "Maximum allowable appropriations limit" means the appropriations that could be, or could have been, spent in any given year under the limitations of this chapter.

(b) "Maximum allowable appropriations limit" does not mean actual appropriations spent or actual expenditures.

(9) "Most recent fiscal year's inflation index" means the fiscal year inflation index two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(10) "Most recent fiscal year's population" means the fiscal year population two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(11) "Population" means the number of residents of the state as of July 1 of each year as calculated by the Governor's Office of Planning and Budget according to the procedures and requirements of Section 63-38c-202.

(12) "Revenues" means the revenues of the state from every tax, penalty, receipt, and other monetary exaction and interest connected with it that are recorded as unrestricted revenue of the General Fund and from non-Uniform School Fund income tax revenues, except as specifically exempted by this chapter.

(13) "Security" means any bond, note, warrant, or other evidence of indebtedness, whether or not the bond, note, warrant, or other evidence of indebtedness is or constitutes an "indebtedness" within the meaning of any provision of the constitution or laws of this state.

Section 7. Section **72-2-108** is amended to read:

72-2-108. Apportionment of funds available for use on class B and class C roads -- Bonds.

- 617 (1) For purposes of this section:
- 618 (a) "Graveled road" means a road:
- 619 (i) that is:
- 620 (A) graded; and
- 621 (B) drained by transverse drainage systems to prevent serious impairment of the road
- 622 by surface water;
- 623 (ii) that has an improved surface; and
- 624 (iii) that has a wearing surface made of:
- 625 (A) gravel;
- 626 (B) broken stone;
- 627 (C) slag;
- 628 (D) iron ore;
- 629 (E) shale; or
- 630 (F) other material that is:
- 631 (I) similar to a material described in Subsection (1)(a)(iii)(A) through (E); and
- 632 (II) coarser than sand.
- 633 (b) "Paved road" includes a graveled road with a chip seal surface.
- 634 (c) "Road mile" means a one-mile length of road, regardless of:
- 635 (i) the width of the road; or
- 636 (ii) the number of lanes into which the road is divided.
- 637 (d) "Weighted mileage" means the sum of the following:
- 638 (i) paved road miles multiplied by five;
- 639 (ii) graveled road miles multiplied by two; and
- 640 (iii) all other road type road miles multiplied by one.
- 641 (2) Subject to the provisions of [~~Subsections~~] Subsection (3) [~~through (5)~~], funds in the
- 642 class B and class C roads account shall be apportioned among counties and municipalities in
- 643 the following manner:
- 644 (a) 50% in the ratio that the class B roads weighted mileage within each county and
- 645 class C roads weighted mileage within each municipality bear to the total class B and class C
- 646 roads weighted mileage within the state; and
- 647 (b) 50% in the ratio that the population of a county or municipality bears to the total

population of the state as of the last official federal census or the United States Bureau of Census estimate, whichever is most recent, except that if population estimates are not available from the United States Bureau of Census, population figures shall be derived from the estimate from the Utah Population Estimates Committee.

(3) For purposes of Subsection (2)(b), "the population of a county" means:

(a) the population of a county outside the corporate limits of municipalities in that county, if the population of the county outside the corporate limits of municipalities in that county is not less than 14% of the total population of that county, including municipalities; and

(b) if the population of a county outside the corporate limits of municipalities in the county is less than 14% of the total population:

(i) the aggregate percentage of the population apportioned to municipalities in that county shall be reduced by an amount equal to the difference between:

(A) 14%; and

(B) the actual percentage of population outside the corporate limits of municipalities in that county; and

(ii) the population apportioned to the county shall be 14% of the total population of that county, including incorporated municipalities.

~~[(4)(a) If an apportionment under Subsection (2) to a county or municipality is less than 110% of the amount apportioned to the county or municipality from the class B and class C roads account for fiscal year 1996-97, the department shall:]~~

~~[(i) reapportion the funds under Subsection (2) to ensure that the county or municipality receives an amount equal to 110% of the amount apportioned to the county or municipality from the class B and class C roads account for fiscal year 1996-97; and]~~

~~[(ii) decrease proportionately as provided in Subsection (4)(b) the apportionments to counties and municipalities for which the reapportionment under Subsection (4)(a)(i) does not apply:]~~

~~[(b) The aggregate amount of the funds that the department shall decrease proportionately from the apportionments under Subsection (4)(a)(ii) is an amount equal to the aggregate amount reapportioned to counties and municipalities under Subsection (4)(a)(i).]~~

~~[(5)(a)(i) In addition to the apportionment adjustments made under Subsection (4), a county or municipality that qualifies for reapportioned monies under Subsection (4)(a)(i) shall~~

receive 1/3 of the percentage increase in the class B and C road account for the current fiscal year over the previous fiscal year.]

~~[(ii) Any percentage increase calculated under Subsection (5)(a)(i) may not include any increases from increases in fees or tax rates.]~~

~~[(b) The adjustment under Subsection (5)(a) shall be made in the same way as provided in Subsection (4)(a)(ii) and (b).]~~

~~[(6)]~~ (4) The governing body of any municipality or county may issue bonds redeemable up to a period of ten years under Title 11, Chapter 14, Local Government Bonding Act, to pay the costs of constructing, repairing, and maintaining class B or class C roads and may pledge class B or class C road funds received pursuant to this section to pay principal, interest, premiums, and reserves for the bonds.

Section 8. Section **72-2-117.5** is amended to read:

72-2-117.5. Local Transportation Corridor Preservation Fund -- Distribution.

(1) As used in this section:

(a) "Council of governments" means a decision-making body in each county composed of the county governing body and the mayors of each municipality in the county.

(b) "Metropolitan planning organization" has the same meaning as defined in Section 72-1-208.5.

(2) There is created the Local Transportation Corridor Preservation Fund within the Transportation Fund.

(3) The fund shall be funded from the following sources:

(a) a local option transportation corridor preservation fee imposed under Section 41-1a-1222;

(b) appropriations made to the fund by the Legislature;

(c) contributions from other public and private sources for deposit into the fund;

(d) interest earnings on cash balances;

(e) all monies collected from rents and sales of real property acquired with fund monies;

(f) proceeds from general obligation bonds, revenue bonds, or other obligations issued as authorized by Title 63B, Bonds; and

(g) the portion of the sales and use tax described in Subsection 59-12-1703(4)(a)(ii)

and required by Subsection 59-12-1703(7)(b)(i) to be deposited into the fund.

(4) (a) All monies appropriated to the Local Transportation Corridor Preservation Fund are nonlapsing.

(b) The State Tax Commission shall provide the department with sufficient data for the department to allocate the revenues:

(i) provided under Subsection (3)(a) to each county imposing a local option transportation corridor preservation fee under Section 41-1a-1222; and

(ii) provided under Subsection 59-12-1703(4)(a)(ii) to each county imposing a county option sales and use tax for transportation.

(c) The monies allocated under Subsection (4)(b):

(i) shall be used for the purposes provided in this section for each county; and

(ii) are allocated to each county as provided in this section:

(A) with the condition that the state will not be charged for any asset purchased with the monies allocated under Subsection (4)(b); and

(B) are considered a local matching contribution for the purposes described under Section 72-2-123 if used on a state highway.

(d) Administrative costs of the department to implement this section shall be paid from the fund.

(5) (a) The department shall authorize the expenditure of fund monies to allow a highway authority to acquire real property or any interests in real property for state, county, and municipal transportation corridors subject to:

(i) monies available in the fund to each county under Subsection (4)(b); and

(ii) the provisions of this section.

(b) Fund monies may be used to pay interest on debts incurred in accordance with this section.

(c) (i) (A) Fund monies may be used to pay maintenance costs of properties acquired under this section but limited to a total of 5% of the purchase price of the property.

(B) Any additional maintenance cost shall be paid from funds other than under this section.

(C) Revenue generated by any property acquired under this section is excluded from the limitations under this Subsection (5)(c)(i).

(ii) Fund monies may be used to pay direct costs of acquisition of properties acquired under this section.

(d) Fund monies allocated under Subsection (4)(b) may be used by a county highway authority for countywide transportation planning if:

(i) the county is not included in a metropolitan planning organization;

(ii) the transportation planning is part of the county's continuing, cooperative, and comprehensive process for transportation planning, corridor preservation, right-of-way acquisition, and project programming;

(iii) no more than four years allocation every 20 years to each county is used for transportation planning under this Subsection (5)(d); and

(iv) the county otherwise qualifies to use the fund monies as provided under this section.

(e) (i) Fund monies allocated under Subsection (4)(b) may be used by a county highway authority for transportation corridor planning that is part of the corridor elements of an ongoing work program of transportation projects.

(ii) The transportation corridor planning under Subsection (5)(e)(i) shall be under the direction of:

(A) the metropolitan planning organization if the county is within the boundaries of a metropolitan planning organization; or

(B) the department if the county is not within the boundaries of a metropolitan planning organization.

(6) (a) (i) The Local Transportation Corridor Preservation Fund shall be used to preserve transportation corridors, promote long-term statewide transportation planning, save on acquisition costs, and promote the best interests of the state in a manner which minimizes impact on prime agricultural land.

(ii) The Local Transportation Corridor Preservation Fund shall only be used to preserve a highway corridor that is:

(A) right-of-way for a state highway; or

(B) right-of-way for a minor arterial highway as defined in Section 72-4-102.5.

~~(ii)~~ (iii) The Local Transportation Corridor Preservation Fund may not be used for a transportation corridor that is primarily a recreational trail as defined under Section

63-11a-101.

(b) (i) The department shall develop and implement a program to educate highway authorities on the objectives, application process, use, and responsibilities of the Local Transportation Corridor Preservation Fund as provided under this section to promote the most efficient and effective use of fund monies including priority use on designated high priority corridor preservation projects.

(ii) The department shall develop a model transportation corridor property acquisition policy or ordinance that meets federal requirements for the benefit of a highway authority to acquire real property or any interests in real property under this section.

(c) The department shall authorize the expenditure of fund monies after determining that the expenditure is being made in accordance with this section from applications that are:

(i) made by a highway authority; [~~and~~]

(ii) endorsed by the council of governments[~~;~~]; and

(iii) for a right-of-way purchase for a state highway or minor arterial highway.

(7) (a) (i) A council of governments may establish a council of governments endorsement process which includes prioritization and application procedures for use of the monies allocated to each county under this section.

(ii) The endorsement process under Subsection (7)(a)(i) may include review or endorsement of the preservation project by the:

(A) metropolitan planning organization if the county is within the boundaries of a metropolitan planning organization; or

(B) the department if the county is not within the boundaries of a metropolitan planning organization.

(b) All fund monies shall be prioritized by each highway authority and council of governments based on considerations, including:

(i) areas with rapidly expanding population;

(ii) the willingness of local governments to complete studies and impact statements that meet department standards;

(iii) the preservation of corridors by the use of local planning and zoning processes;

(iv) the availability of other public and private matching funds for a project;

(v) the cost-effectiveness of the preservation projects;

(vi) long and short-term maintenance costs for property acquired; and
(vii) whether the transportation corridor is included as part of:
(A) the county and municipal master plan; and
(B) (I) the statewide long range plan; or
(II) the regional transportation plan of the area metropolitan planning organization if one exists for the area.

(8) (a) Unless otherwise provided by written agreement with another highway authority, the highway authority that holds the deed to the property is responsible for maintenance of the property.

(b) The transfer of ownership for property acquired under this section from one highway authority to another shall include a recorded deed for the property and a written agreement between the highway authorities.

(9) (a) The proceeds from any bonds or other obligations secured by revenues of the Local Transportation Corridor Preservation Fund shall be used for the purposes authorized for funds under this section.

(b) The highway authority shall pledge the necessary part of the revenues of the Local Transportation Corridor Preservation Fund to the payment of principal and interest on the bonds or other obligations.

(10) (a) A highway authority may not apply for monies under this section unless the highway authority has:

(i) a transportation corridor property acquisition policy or ordinance in effect that meets federal requirements for the acquisition of real property or any interests in real property under this section; and

(ii) an access management policy or ordinance in effect that meets the requirements under Subsection 72-2-117(9).

(b) The provisions of Subsection (10)(a)(i) do not apply if the highway authority has a written agreement with the department for the acquisition of real property or any interests in real property under this section.

Section 9. Section **72-2-121** is amended to read:

72-2-121. Public Transportation System Tax Highway Fund.

(1) There is created a special revenue fund entitled the Public Transportation System

Tax Highway Fund.

(2) The fund consists of monies generated from the following revenue sources:

(a) any voluntary contributions received for new construction, major renovations, and improvements to Interstate 15 and state highways within a county of the first class; and

(b) the portion of the sales and use tax described in Subsection 59-12-502(5)(a)(ii) deposited in or transferred to the fund through an interlocal agreement[~~;~~and].

~~[(c) the portion of the sales and use tax described in Subsection 59-12-1703(4)(a)(ii) and required by Subsection 59-12-1703(7)(b)(ii) to be deposited in or transferred to the fund.]~~

(3) (a) The fund shall earn interest.

(b) All interest earned on fund monies shall be deposited into the fund.

(4) The executive director may use fund monies, as prioritized by the Transportation Commission[~~;~~(a) for the portion of the monies generated from the revenue sources described in Subsections (2)(a) and (b)], only for new construction, major renovations, and improvements to Interstate 15 and state highways within a county of the first class and to pay any debt service and bond issuance costs related to those projects[~~;~~and].

~~[(b) for the portion of the monies generated from the revenue sources described in Subsection (2)(c), only for state highway corridor preservation for new state highway projects within a county of the first class, to pay any debt service and bond issuance costs related to those projects, and shall not supplant monies already designated for state projects.]~~

(5) The additional administrative costs of the department to administer this fund shall be paid from the monies in the fund.

Section 10. Section **72-2-125** is enacted to read:

72-2-125. Mountain View Corridor Fund.

(1) As used in this section, "Mountain View Corridor" means the land area of Salt Lake County running from Interstate 80 south between SR-154 and SR-111 to 12600 South and then south and southeasterly to the northern portion of Utah County west of SR-15.

(2) There is created a special revenue fund entitled the Mountain View Corridor Fund.

(3) The fund consists of monies generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of a state highway within the Mountain View Corridor;

(b) appropriations made to the fund by the Legislature;

865 (c) a local option transportation corridor preservation fee imposed in a county of the
866 first class under Section 41-1a-1222;
867 (d) a portion of the Public Transit Tax imposed in a county of the first class under
868 Section 59-12-502; and
869 (e) a portion of the County Option Sales and Use Tax for Transportation tax revenue
870 imposed in a county of the first class that is designated for corridor preservation under Section
871 59-12-1703.
872 (4) (a) The fund shall earn interest.
873 (b) All interest earned on fund monies shall be deposited into the fund.
874 (5) The executive director may use fund monies only to pay for:
875 (a) the acquisition of real property within the Mountain View corridor;
876 (b) a highway construction project within the Mountain View Corridor; and
877 (c) any debt service and bond issuance costs related to that project.
878 Section 11. **Effective date.**
879 This bill takes effect on July 1, 2007.
880 Section 12. **Repealer.**
881 This bill repeals:
882 Section **59-13-104, Tax rate decals -- Posted on pump.**

Legislative Review Note
as of 1-29-07 10:43 AM

Office of Legislative Research and General Counsel

H.B. 158 - Amendments to Transportation Provisions

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill is estimated to be revenue neutral in both FY 2008 and FY 2009 based on the current wholesale price of gas. Revenues could increase in the out years depending on the wholesale price. There would also be some increased maintainence cost from the potential purchase of land however, these costs will be covered within existing budgets.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.